

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

MONTIYA THOMAS,

Petitioner,

Civil Case No. 15-cv-734-DRH

vs.

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM and ORDER

HERNDON, District Judge:

This matter comes before the Court on petitioner Montiya Thomas' motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255 (Doc. 1). The United States of America filed a response (Doc. 7) and Thomas filed a reply (Doc. 8)

Upon review of the pleadings, the Court believes an evidentiary hearing would expedite the resolution of Thomas' pending § 2255 motion. Specifically, Thomas alleges that his counsel was ineffective in failing to file a notice of appeal. Thomas and his Federal Public Defender Ethan Skaggs filed competing declarations pursuant to 28 U.S.C. § 1746 regarding the request for an appeal. Accordingly, the Court finds that the interests of justice require that Thomas be represented by counsel at the hearing. The Court further finds that Thomas is unable to afford counsel and accordingly, the Court hereby **ORDERS** that, pursuant to Rule 8(c) of the Rules Governing Section 2255 Proceedings and 18

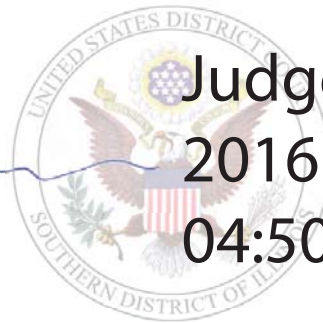
U.S.C. § 3006A, attorney **James Stern**, of the CJA Panel, is **APPOINTED** to represent Thomas for the purposes of this hearing only.

Should it become apparent after the hearing that further briefing on Thomas' § 2255 motion is necessary, the Court will enter an appropriate order at that time. Furthermore, the Court **SETS** this matter for hearing on Thursday, January 12, 2017 at 9:00 a.m.

IT IS SO ORDERED.

Signed this 28th day of October, 2016.

David A. Herndon



Judge Herndon

2016.10.28

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United States District Judge